



On approval of Agreement in the form of exchange of letters between the Government of the Republic of Kazakhstan and the Government of the United States of America on application of sanitary and phytosanitary measures

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated April 14, 2016 No. 211.

Unofficial translation

The Government of the Republic of Kazakhstan RESOLVES:

1. To approve the attached Agreement in the form of exchange of letters between the Government of the Republic of Kazakhstan and the Government of the United States of America on application of sanitary and phytosanitary measures, signed on July 2, 2015.

2. This resolution shall be enforced from the date of its signing.

*Prime Minister
of the Republic of Kazakhstan*

K. Massimov

Approved by
Resolution No. 211
of the Government
Republic of Kazakhstan
dated April 14, 2016
Ambassador Michael Froman
U.S. Trade Representative
Washington DC

Dear Ambassador Froman,

I have the honor to confirm the following understanding reached between representatives of the Government of the Republic of Kazakhstan and the Government of the United States of America:

Harmonization with international standards. The Government of the Republic of Kazakhstan confirms that in cases where neither the Government of the Republic of Kazakhstan, nor the Eurasian Economic Union (further - the EAEU) established a mandatory sanitary or phytosanitary standard (further - SPS) for a certain SPS risk, the Government of the Republic of Kazakhstan will ensure the application of relevant standards, guidelines or recommendations of the World Organization for Animal Health (OIE), the International Plant Protection Convention (IPPC) and the Codex Alimentarius Commission (further - the Code). In cases where the SPS measure, in force in the EAEU is stricter than that which complies with the international standard, guidelines or recommendations, the Government of the Republic of Kazakhstan will apply the relevant international standard, guidelines or recommendations, or parts thereof, until scientific rationale for a more rigorous standard is provided.

The Government of the Republic of Kazakhstan guarantees that the above mentioned obligations will remain a mandatory part of the EAEU regulatory framework in the future. The relevant authorized body of the Government of the Republic of Kazakhstan timely and duly notifies the United States of America (further - the USA) regarding any measure for which the Government of the Republic of Kazakhstan proposes to apply a more rigorous standard (a measure more stringent than the corresponding international standard, guidelines or recommendation) and provides the appropriate scientific substantiation of such a standard.

In respect of veterinary drugs for which the Government of the Republic of Kazakhstan or the EAEU has not established the maximum permissible residual limit (further - MRL), including ractopamine and other hormonal growth stimulants, the Government of the Republic of Kazakhstan continues to apply the Codex standard, where available, for the residual level of the drug in imported products. The Government of the Republic of Kazakhstan continues to apply the Codex standard, where available, for the residual level of any veterinary drug for which the Government of the Republic of Kazakhstan or the EAEU has not established an MRL, until the risk assessment for the population of Kazakhstan, carried out in accordance with the requirements set out in the section “Risk Assessment ”of this letter is completed by the Government of the Republic of Kazakhstan or jointly by the EAEU member states, and until the Government of the Republic of Kazakhstan defines an MRL for the drug based on this risk assessment.

For any veterinary product for which the Codex standard has not been adopted and the Government of the Republic of Kazakhstan or the EAEU member states have not jointly conducted risk assessment for the population of Kazakhstan, the Government of the Republic of Kazakhstan will consider the use of any relevant MRL accepted in the USA, and also the use of any relevant MRL recommended by the Joint Expert Committee on Food Additives (JECFA) of the Food and Agriculture Organization - World Health Organization (FAO-WHO) as the basis for establishing a temporary MRL.

Risk Assessment: The Government of the Republic of Kazakhstan ensures that any risk assessment of a veterinary drug for the population of Kazakhstan, carried out by the Government of the Republic of Kazakhstan or jointly by the EAEU member states and used to establish MRLs, is carried out in accordance with respective international guidelines, including the Codex Alimentarius “Working Principles for Risk Analysis for Food Safety for Application by Governments” CAC / GL 62-2007. The Government of the Republic of Kazakhstan ensures that any such risk assessment of a veterinary drug is scientifically substantiated, documented and conducted transparently, and that interested member countries of the World Trade Organization (further -the WTO) will be given the opportunity to comment on the risk assessment draft before the risk assessment is completed.

The Government of the Republic of Kazakhstan ensures that the comments of WTO member countries on any ongoing risk assessments of veterinary drugs will be taken into account before the risk assessment is completed. The relevant authorized body of the

Government of the Republic of Kazakhstan publishes a final risk assessment. The Government of the Republic of Kazakhstan ensures that any such risk assessment of a veterinary drug must be consistent with the circumstances of the risk, and take into account reasonable available, relevant, scientific data.

Before completion of the development of any measure that will be applied in Kazakhstan on the basis of risk assessment of a veterinary drug and can have a significant impact on trade, the Government of the Republic of Kazakhstan provides an opportunity for other WTO member countries to comment on the proposed measure, and also that comments from WTO member countries will be factored into finalization of the measure. Given technical and economic opportunities, the Government of the Republic of Kazakhstan, further ensures that any risk management measure applied to any veterinary product is no more restrictive for trade than is necessary to achieve an adequate level of protection for Kazakhstan. If at the start time of the risk assessment of veterinary drug the authorized body of the Government of the Republic of Kazakhstan permits import of food, the authorized body of the Government of the Republic of Kazakhstan does not prohibit or restrict the import of such food solely on the ground that risk assessment was initiated.

Registry of companies: The Government of the Republic of Kazakhstan confirms that the registry of third countries' businesses (further- the registry) is common to all EAEU member states, but at present, each EAEU member state can technically introduce restrictions only in its national part of the registry. The Government of the Republic of Kazakhstan confirms that its respective authorized body maintains its part of the registry on its website (<http://mgov.kz/napravleniya-razvitiya/veterinarnaya-bezopasnost/>), which includes U.S. companies, entered in the national parts of the registry of other EAEU member states. If another EAEU member state imposes temporary or permanent restrictions on a U.S. company included in the registry, the authorized body of the Government of the Republic of Kazakhstan does not automatically apply this restriction and continues to allow the import of products from this company to Kazakhstan. If the EAEU develops a single general list or a single general registry of companies, the Government of the Republic of Kazakhstan will ensure that U.S. companies do not have restrictions in the registry, except cases, when the restriction is based on scientific principles and applies only to the extent that it is necessary for protecting the life and health of humans, animals or plants, and the U.S. company and the relevant U.S. agency are notified in writing by the relevant authorized body of the Government of the Republic of Kazakhstan on the reasons for restrictions.

If the relevant authorized body of the Government of the Republic of Kazakhstan imposes a temporary restriction on imports from a company to Kazakhstan, the Government of the Republic of Kazakhstan ensures that, excepting an emergency, such temporary restrictions apply to the import of products from the company only at the request of this company or the U.S. competent authority, or on repeated confirmation of non-compliance with the EAEU requirements referred to in the resolution of the Council of the Eurasian Economic

Commission of October 9, 2014 No. 94 (further - resolution No. 94), or established during the inspection and / or re-inspection of the company, or as a result of monitoring and enhanced laboratory control of regulated goods (products) produced by the company, of which the competent authority was notified. In this regard, the Government of the Republic of Kazakhstan ensures that the temporary restriction on the import of products from the company, caused by repeated nonconformities to the EAEU requirements, applies only in cases where the nonconformity results pose a serious threat to the health and life of humans or animals. After the United States Department of Agriculture, Food Safety and Inspection Service (FSIS) or another competent U.S. authority examines the situation and, if necessary, takes remedial actions, the USA can direct a notice to the Government of the Republic of Kazakhstan containing information on results of the examination and any remedial actions taken to correct the nonconformity. The Government of the Republic of Kazakhstan ensures that upon receipt of this notice, the restriction imposed on the import of products from the company will be lifted unless the relevant authorized body of the Government of the Republic of Kazakhstan determines, basing on transparent, scientifically sound assessment, provided to the United States of America in writing, that the company does not meet the requirements of resolution No. 94, considering proportionality of the risk.

The Government of Kazakhstan is making efforts to facilitate supply of poultry meat through the territory of the EAEU members for import into Kazakhstan.

Acceptance of guarantees: The authorized body of the Government of the Republic of Kazakhstan continues to permit FSIS to provide guarantees for inclusion of U.S. companies in any official list (such as the "registry of companies") by attesting any companies, engaged in slaughtering, processing, or refrigerating of poultry or poultry products, pork or pork products, beef or beef products, mutton or mutton products, for inclusion in any such official list of the companies, licensed to produce and / or process such products for export to Kazakhstan. After receiving a request from FSIS to include the company in the registry, the relevant authorized body of the Government of the Republic of Kazakhstan adds this company to its national part of the registry, unless the relevant authorized body of the Government of the Republic of Kazakhstan determines, on the basis of a transparent, scientifically sound assessment provided in writing to the USA that this company does not comply with the requirements of Section B of Annex 3 of resolution No. 94, considering proportionality of the risk in case of failure to add the company to the registry.

Annulment of requirement on inclusion in the register: the Government of the Republic of Kazakhstan confirms that it will ensure that in resolution No. 317 of the Customs Union Commission dated June 18, 2010, as amended by resolution No. 294 of the Board of the Eurasian Economic Commission dated December 10, 2013 (further- resolution No. 317) before July 1, 2015, amendments will be made to ultimately annul the requirement to include

a company in the "registry of companies" so that products manufactured by the company that are listed as low-risk products in resolution No. 317 as of the date of this letter (and which are indicated in Annex A to this letter), had the right to be imported to Kazakhstan.

Accordingly, starting from July 1, 2015, the Government of the Republic of Kazakhstan will not request conducting an audit to ensure that the products of the company, included in resolution No. 317 as low risk products, as of the date of this letter (and which are indicated in Annex A to this letter), had the right to be imported to Kazakhstan.

I have the honor to propose that this letter and your reply letter confirming that your Government shares this understanding shall constitute an Agreement between our governments that is temporarily applied from the date of receiving your reply letter and comes into effect from the date of receiving by the United States of America on diplomatic channels of a written notification of Kazakhstan on fulfillment of its state procedures necessary for this Agreement to come into force.

Sincerely,

Zhanar Aitzhanova,

Minister of Economic Integration of the Republic of Kazakhstan

Annex to the letter
of Minister of Economic
Integration
of the Republic of Kazakhstan
Zh. Aitzhanova

Annex A

List of commodities, imported by companies, not subject to inclusion in the registry of companies of third countries

No	HS Code	Name of commodity
1	o f 0401	Milk and cream, uncondensed and without added sugar or other sweeteners (except raw milk and raw cream)
2	0402	Milk and cream, condensed or with added sugar or other sweeteners
3	0403	Buttermilk, curdled milk and cream, yogurt, kefir and other fermented or acidified milk and cream, condensed or not condensed, with or without added sugar or other sweeteners, with or without flavoring additives, with or without fruit , nuts or cocoa
4	0404	Whey, condensed, or not condensed, with or without added sugar or other sweeteners; products from natural components of milk, with or without added sugar or other sweeteners
5	0405	Butter and other fats and oils made from milk; milk pastes
6	o f 0406	Cheese and cottage cheese, except processed cheese containing sausage, meat, meat offal, blood, fish, crustaceans, mollusks or other invertebrates, or products of group 04 HS, or any combination of these products
7	0504 00 000 0	Intestines, bladders and stomachs of animals (except fish), whole or in pieces, fresh, chilled, frozen, salted, in brine, dried or smoked

8	o f 2105 00	Ice cream, except fruit ice cream, fruit and consumer ice
9	2309	Products used for feeding animals ¹
10	o f 3501	Casein, caseinates and other casein derivatives
11	3503 00	Gelatin (including in rectangular (including square) sheets, with or without surface treatment, colored or uncolored) and gelatin derivatives; fish adhesive; other adhesives of animal origin

¹ Excluded from registry of third country businesses

Zhanar Aitzhanova
Minister of Economic Integration
of the Republic of Kazakhstan
Astana, Kazakhstan

Dear Minister Aitzhanova,

I am pleased to acknowledge your letter of [date], which reads as follows:

“I have the honor to confirm the following understanding reached between representatives of the Government of the Republic of Kazakhstan and the Government of the United States of America:

Harmonization with international standards. The Government of the Republic of Kazakhstan confirms that in cases where neither the Government of the Republic of Kazakhstan, nor the Eurasian Economic Union (further - the EAEU) established a mandatory sanitary or phytosanitary standard (further - SPS) for a certain SPS risk, the Government of the Republic of Kazakhstan will ensure the application of relevant standards, guidelines or recommendations of the World Organization for Animal Health (OIE), the International Plant Protection Convention (IPPC) and the Codex Alimentarius Commission (further - the Code). In cases where the SPS measure, in force in the EAEU is stricter than that which complies with the international standard, guidelines or recommendations, the Government of the Republic of Kazakhstan will apply the relevant international standard, guidelines or recommendations, or parts thereof, until scientific rationale for a more rigorous standard is provided.

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I have the honor to propose that this letter and your reply letter confirming that your Government shares this understanding shall constitute an Agreement between our

governments that is temporarily applied from the date of receiving your reply letter and comes into effect from the date of receiving by the United States of America on diplomatic channels of a written notification of Kazakhstan on fulfillment of its state procedures necessary for this Agreement to come into force.”.

I have the honor to confirm that my Government shares this understanding and that Your letter

and this reply shall constitute an agreement between our Governments for its entry into force after receiving on diplomatic channels of a written notification of Kazakhstan on fulfillment of its state procedures necessary for this Agreement to come into force.

Sincerely,

Ambassador Michael Froman

U.S. Trade Representative

Annex to the letter
of Minister of Economic
Integration
of the Republic of Kazakhstan
Zh. Aitzhanova

Annex A

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7	0504 00 000 0	Intestines, bladders and stomachs of animals (except fish), whole or in pieces, fresh, chilled, frozen, salted, in brine, dried or smoked
8	o f 2105 00	Ice cream, except fruit ice cream, fruit and consumer ice
9	2309	Products used for feeding animals 1
10	o f 3501	Casein, caseinates and other casein derivatives

11	3503 00	Gelatin (including in rectangular (including square) sheets, with or without surface treatment, colored or uncolored) and gelatin derivatives; fish adhesive; other adhesives of animal origin
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